



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Release Number: **201309019**  
Release Date: 3/1/2013  
Date: December 6, 2012  
UIL Code: 501.33-00  
501.36-00

Contact Person:  
Identification Number:  
Contact Number:  
Employer Identification Number:  
Form Required To Be Filed:  
Form  
Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

Letter 4038(CG) (11-2005)  
Catalog Number 47632S

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Holly O. Paz  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter

cc:



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: September 10, 2012

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Numbers:

501.33-00

501.36-01

Legend:

B =  
C =  
D =  
E =  
F =

Dear

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code ("Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(3) of the Code. The basis for our conclusion is set forth below.

**Issues**

1. Does the factual record in the administrative file demonstrate that you fail to meet the operational test under section 1.501(c)(3)-1(c)(1) of the Treasury Regulations? Yes, for the reasons stated below.

2. Do you meet the requirements under section 501(q) of the Code? No, for the reasons described below.
3. Did you fail to submit additional information to the Internal Revenue Service upon request, and does your lack of response constitute another basis for denying your application under section 501(c)(3) of the Code? Yes, for the reasons stated below.

### Facts

You are a B nonprofit, non-stock corporation incorporated on date D. Your Articles of Incorporation state that you are organized and operated exclusively for one or more purposes as specified in section 501(c)(3) of the Internal Revenue Code, including for such purposes the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code. Your Articles of Incorporation state that your specific purpose is to:

"[P]rovide charitable assistance to strengthen and support families and communities in need. The means of providing such charitable assistance include but are not limited to debt and mortgage counseling and assistance."

Your application for exemption states that you plan to conduct the following activities:

1. You will provide financial assistance to individuals and families for charitable causes and mortgage assistance to those who have been determined to be in financial need.
2. You will provide support to 501(c)(3) organizations.
3. You will provide mortgage counseling and debt counseling to those who have been determined to be in need.
4. You will provide food and transportation to those who have been determined to be in financial need.
5. You will provide tuition to those who attend school, college, or vocational training.
6. You will operate in foreign country C.

You provided additional information in response to our inquiry letters, which indicates the following:

1. You will no longer operate in foreign countries including C.
2. You will provide mortgage assistance programs. Your mortgage program will consist of % of your total activities in terms of time and resources. The

selection criteria will be based on demonstration of financial need and loss of employment. You did not define how you determine the financial need. You will give priority to very low-income and low-income families, veterans, elderly, and families with disabled and sick. However, you will also treat each case individually by situations and circumstances. You did not provide what percentage of your beneficiaries will actually consist of very low-income and low-income families as a result of the priority selection. The grant application form for your assistance program is a one-page form requesting name, date of birth, address, phone numbers, email address, nature of financial hardship, money needed, and how the money will be used. It does not ask the applicant's income or assets. You later stated that you will collect income and expense data from applicants.

You provided the following two examples that illustrate how you select the beneficiaries of your mortgage assistance program:

Example 1: You may select a single-mother in the low-income bracket to provide the funding for      % of her outstanding mortgage loan value.

Example 2: You may select a family where the primary breadwinner is working on a college degree while working full-time to support the family. The level of assistance could be to cover the mortgage payments each month until graduation date.

3. You will provide mortgage counseling and debt counseling to the public; however, you did not provide any details on how you will conduct your mortgage counseling and debt counseling. This activity will consist of      % of your total activities.
4. Administrative activities will consist of the remaining five percent of your activities.

You did not explain what happened to your other planned activities: support to 501(c)(3) organizations, providing food and transportation to needy people, and providing scholarships.

You state your initial funding will be from the family of E, who is your president, and the son-in-law of E, who is your secretary.

We requested further details about your mortgage and debt counseling on two separate occasions and the following illustrates how much and what you provided to our inquiry questions:

- We requested the selection criteria for your mortgage assistance. You did not reply to this question at all.

- We requested copies of all the forms, agreements, and applications that are used for mortgage and debt counseling. You did not provide any forms citing you do not have any current forms and agreements twice. You first replied that you would use forms that other non-profit organizations use. You later replied that you are planning to create the documents.
- We asked you to provide a detailed description of the financial, credit and housing related education and counseling services/sessions twice. You first replied that you have not developed but will include topics such as creating a budget, sticking to a budget, debt management, strategies for getting out of debt, etc. In the second response, you repeated what you answered in your first response. You also stated that it is possible that you will not actually participate in the counseling and training sessions, but will partner with another non-profit organization that is already providing the service.
- We asked you to provide the materials of mortgage and debt counseling for students and instructors. You stated that none of the materials have been developed and you will send the materials to us after you define the courses. You did not explain how you define the courses.
- We requested your schedules of mortgage and debt counseling. You stated that you do not have a schedule of the courses/sessions.

You indicate in an attachment to your application that you “... have no limitation on who may request a donation.”

## **Law**

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 501(q) of the Code provides that organizations which provide “credit counseling services” as a substantial purpose shall not be exempt from taxation under section 501(a) unless they are described in section 501(c)(3) or 501(c)(4) and they are organized and operated in accordance with the following requirements:

(A) The organization—

- (i) provides credit counseling services tailored to the specific needs and circumstances of consumers,
- (ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,
- (iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental

- to providing credit counseling services, and
- (iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.
- (B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.
- (C) The organization establishes and implements a fee policy which-
  - (i) requires that any fees charged to a consumer for services are reasonable,
  - (ii) allows for the waiver of fees if the consumer is unable to pay, and
  - (iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.
- (D) At all times the organization has a board of directors or other governing body-
  - (i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,
  - (ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and
  - (iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).
- (F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that, in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subsection, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations defines, in pertinent part, the term "charitable" as used in its generally accepted legal sense including relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Rev. Rul. 69-175, 1969-1 C.B. 149, held that an organization formed by the parents of pupils attending a private school, to provide bus transportation to the children whose parents belong to the organization, serves private interest rather than public interest.

Rev. Rul. 70-585, 1970-2 C.B. 115, discusses four examples of organizations providing housing and whether each qualified as charitable within the meaning of section 501(c)(3) of the Code. Situation 1 describes an organization formed to construct new homes and renovate existing homes for sale to low-income families who could not obtain financing through conventional channels. The organization also provides financial aid to eligible families who do not have the necessary down payment. Its operating funds were mainly obtained from federal loans and contributions from the general public. The ruling holds that by providing homes for low-income families who otherwise could not afford them, the organization relieved the poor and distressed.

Situation 3 describes an organization formed to formulate plans for the renewal and rehabilitation of a particular area in a city as a residential community. The median income level in the area was lower than in other sections of the city and the housing in the area was generally old and badly deteriorated. The organization developed an overall plan for the rehabilitation of the area. The organization also purchased apartment buildings that it rehabilitated and rented at cost to low and moderate income families with a preference given to residents of the area. The revenue ruling holds that the organization is described in section 501(c)(3) of the Code because its purposes and activities combated community deterioration.

Situation 4 describes an organization formed to alleviate a shortage of housing for moderate-income families in a particular community. The organization planned to build housing to be rented at cost to moderate-income families. The Service held that the organization failed to qualify for exemption under section 501(c)(3) of the Code because



the organization's program did not provide relief to the poor or further any other charitable purpose within the meaning of section 501(c)(3).

Rev. Rul. 72-147, 1972-1 C.B. 147, in which an organization formed to provide housing to low income families, was held not to be exempt under IRC 501(c)(3) because it gave preference to low income families employed on a farm owned by the individual who created and controlled the organization. The revenue ruling reasoned that, even though the organization was providing housing for low-income families, the fact that all families occupying the housing were farm employees of the creator of the organization demonstrated that the organization was operated for a private benefit.

Rev. Rul. 2006-27, 2006-21 C.B. 915, Situation 1, finds that an organization (X) that, as a substantial part of its activities, (i) makes assistance available exclusively to low-income individuals and families to provide part or all of the funds they need to make a down payment on the purchase of a home, (ii) offers financial counseling seminars and conducts other educational activities to help prepare potential low-income homebuyers for the responsibility of homeownership, (iii) ensures that the dwelling is habitable, (iv) structures its grant making process to ensure that its staff awarding the grants does not know the identity of the party selling the home or the identities of any other parties, (v) rejects any contributions that are contingent on the sale of a particular property or properties, and (vi) conducts a broad based fundraising program that attracts gifts, grants, and contributions from several foundations, businesses, and the general public qualifies for exemption from federal income tax under section 501(c)(3) of the Code.

Situation 3: Z is a nonprofit corporation formed to combat community deterioration in an economically depressed area that has suffered a major loss of population and jobs. Z receives funding from government agencies to build affordable housing units for sale to low and moderate-income families. As a substantial part of its activities, Z makes down payment assistance available to eligible home buyers who wish to purchase the newly-constructed units from Z. Z also offers financial counseling seminars and conducts other educational activities to help prepare potential low and moderate-income home buyers for the responsibility of home ownership. To fund its down payment assistance program and other activities, Z conducts a broad based fundraising program that attracts gifts, grants and contributions from several foundations, businesses, and the general public. In this situation, the organization is operated exclusively for charitable purposes and qualifies for exemption from federal income tax as an organization described in § 501(c)(3).

Section 4.03 of Rev. Proc. 2012-9, 2012-2 I.R.B. 261 provides that exempt status may be recognized in advance of the organization's operations if its proposed operations are described in sufficient detail to permit a conclusion that it will clearly meet the particular requirements for exemption pursuant to the section of the Code under which exemption is claimed. Section 4.03(2) states that the organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and

the nature of contemplated expenditures.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes. Thus, the operational test standard prohibiting a substantial nonexempt purpose is broad enough to include inurement, private benefit, and operations that further nonprofit goals outside the scope of section 501(c)(3).

For an organization claiming the benefits of section 501(c)(3), "... exemption is a privilege, a matter of (legislative) grace rather than right." Christian Echoes National Ministry, Inc. v. United States, 470 F.2d 849, 857 (10<sup>th</sup> Cir. 1972), cert. denied, 414 U.S. 864 (1973).

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact.

The Church in Boston v. Commissioner of Internal Revenue Service, 71 T.C. 102 (1978), the tax court held that the church did not satisfy the operational test of Treas. Reg. 1.501(c)(3)-1(c) because the church's grant program was a nonexempt activity that was more than incidental to its overall purpose. The court also affirmed the Commissioner's determination that the church failed to establish that its grant program constituted an activity in furtherance of an exemption purpose.

In La Verdad v. Commissioner, 82 T.C. 215 (1984), an organization was formed to provide education and charity, but failed to provide sufficient details regarding its proposed operations. The court held that it failed to prove that it would operate exclusively for exempt purposes under section 501(c)(3) of the Code.

New Dynamics Foundation v. United States, 70 Fed. Cl. 782 (2006), was an action for declaratory judgment that the petitioner brought to challenge the denial of his application for exempt status. The court, in finding that the actual purposes displayed in the administrative record supported the Service's denial, stated, "It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant."

The court noted that if the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. The court also highlighted the principle that exemptions from income tax are matters of legislative grace.

## **Application of Law**

Your primary activity consists of providing mortgage and financial assistance to homeowners. This activity is not charitable under section 501(c)(3) of the Code. You do not limit the mortgage and financial assistance to low-income families and individuals

exclusively. An organization cannot be recognized as exempt under section 501(c)(3) unless it shows that it is both organized and operated exclusively for charitable, educational, or other exempt purposes. You failed to meet the operational test of section 1.501(c)(3)-1(c)(1) of the regulations because you are organized for a substantial private purpose and operate in a manner that will benefit private shareholders or individuals. See section 1.501(c)(3)-1(d)(1)(ii) of the regulations, above. Further details for this application of law are set forth below.

### You Are Not Operated Exclusively for Charitable Purposes

You do not operate for one or more exempt purposes under section 501(c)(3) of the Code and your net earnings inures in part to the benefit of private individuals. Your mortgage and financial assistance to particular homebuyers does not warrant a charitable act if it does not exclusively provide relief to the poor, the distressed, or the underprivileged.

In your case, you do not exclusively limit your mortgage and financial assistance to the poor, distressed or underprivileged. You are not like the organizations described in the favorable situations in Rev. Ruls. 70-585 and 2006-27 in that those organizations distributed funds to low-income individuals. In contrast, your services are open to all individuals.

We considered whether your purpose is charitable as the term is defined in section 1.501(c)(3)-1(d)(2) of the regulations, above. However, your mortgage assistance does not fall within the broad outlines of charity as developed by judicial decisions and illustrated in section 1.501(c)(3)-1(d)(2) of the regulations because you do not limit your beneficiaries exclusively to the poor, distressed or underprivileged. You consistently mentioned you will provide your mortgage assistance to people in "need" and give priority to low-income families, but you never actually defined what you meant by "need" nor did you indicate how you would limit your mortgage assistance to a charitable class. You never provided a clear selection criteria or income limit for your beneficiaries and indicated you will or may contribute to any homeowners. Therefore, you failed to establish that your mortgage and financial assistance would be exclusively charitable.

### You Have a Substantial Non-Exempt Purpose

The organizations in Rev. Ruls. 69-175 and 72-102 conducted direct exempt activities such as providing housing to low-income people and transportation to school children. However, exemption was disallowed because the organizations could not overcome significant and direct private benefit. In Better Business Bureau of Washington D.C., Inc. v. United States, above, the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. In your case, you failed to substantiate that your mortgage and financial assistance is set up exclusively for charitable purposes. See Harding Hospital, Inc., and Christian Echoes

National Ministry, Inc. v. United States, above. As a number of courts have ruled, it is incumbent upon an organization seeking a ruling recognizing its tax-exempt status to carry the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact.

The situation in The Church in Boston v. Commissioner, also highlights your non-exempt purposes. You state in the application that you “ ... have no limitation on who may request a donation.” This infers that your insiders may also request such a donation. The court in Church in Boston upheld the Service's denial of the organization's application. The organization had made grants to a number of individuals. When the Service requested information on these grants, the organization stated they were grants to its members. The court found that the organization “ ... was unable to furnish any documented criteria which would demonstrate the selection process of a deserving recipient, the reason for specific amounts given, or the purpose of the grant.” The court ruled that this lack of information precluded the Service from determining whether the grants were made in an objective and nondiscriminatory manner and whether the distribution of such grants was made in furtherance of a charitable purpose. This is similar to your activities in that you do not limit your grants to low-income individuals.

#### Failure to Establish Qualification for Recognition of Exempt Status

We asked you about your grant program. In response, you state you have no current forms, applications, etc. You also state “The exact process hasn't been established yet” and “The criteria for selection and approval has not been developed ... .” Under section 1.501(c)(3)-1(d)(1)(ii) of the regulations, an organization must establish that it is not organized or operated for the benefit of private interests such as founders, officers and other insiders. You have not established that you are not organized or operated for the benefit of your officers.

You are similar to the organization in New Dynamics Foundation. In that court case, the foundation served significant non-exempt purposes that focused primarily on providing personal, rather than public, benefits to “donors.” Similar to New Dynamics you serve significant non-exempt purposes by not limiting your grants to persons who are poor, distressed or underprivileged. Similar to the organization in La Verdad, you have failed to provide sufficient details regarding your operations. As stated in Harding Hospital, an organization has the burden of proving that it satisfies the requirements of the particular exemption statute.

In several instances, you did not provide explanations required by the application. For example, you did not provide enough details on your mortgage and credit counseling which is a substantial part of your activity. You were twice asked to describe your mortgage and credit counseling in further details in terms of actual contents and outline of the application process. You did not provide this information. Similarly, you were twice asked to provide the materials of your mortgage and credit counseling. You did not provide any materials.

You just cited that you have not developed them. We also asked a time and location schedule of your mortgage and debt counseling. You did not provide the schedule either. These are just a few examples why you failed to provide the information that was requested. As illustrated above, there are numerous other instances where you failed to provide detailed information requested. You did not show that your mortgage and credit counseling will be carried out exclusively for any exempt purposes including educational purposes because you failed to present any educational or other exempt purpose methodology in your mortgage and financial counseling activity. You failed to establish that your mortgage and credit counseling is charitable or educational under section 501(c)(3) of the Code.

There are several contradictions and inconsistencies in your application. For example, you initially stated that you will support 501(c)(3) organizations, provide food and transportation to needy people, and provide scholarships in your application. However, you later stated that your mortgage and financial assistance will consist of % of your total activity, mortgage and debt counseling will consist of %, and administrative activities will consist of 5%, contradicting your initial statement that you will conduct other charitable activities. Similarly, your grant application form that applicants fill out for mortgage and financial assistance contradicts the statement that you will give priority to low-income and elderly in your response because it does not ask about the applicant's income or assets. You also stated that you will conduct mortgage and financial counseling in your application. In another response, you stated that you may not participate in the counseling and training sessions. Instead you will partner with another non-profit organization. This exemplifies how you did not provide your future activities in detail or with clarity, but rather provided unclear and inconsistent narratives. Thus, you are similar to the organization in New Dynamics Foundation v. United States, above because the inconsistent, vague, or nonspecific information you provided is not sufficient to establish entitlement to tax-exempt status.

In order to be eligible for recognition of tax-exempt status under section 501(c)(3), an organization must establish that it is both organized and operated exclusively for one or more exempt purposes. See section 1.501(c)(3)-1(a)(1) of the regulations. Although the provision of mortgage and financial counseling may be an exempt purpose, you did not provide sufficient information about how you planned to conduct your activities to permit us to determine whether they will advance these purposes as required by Rev. Proc. 2012-9, Section 4.03. Therefore, you failed to provide an adequate basis for us to determine that you are organized and operated exclusively for exempt purposes. We are entitled to draw inferences from the missing information. See La Verdad v. Commissioner and Harding Hospital, above. Accordingly, we conclude that you have not met your burden that you are operating exclusively for exempt purposes under section 501(c)(3) of the Code.

## Conclusion



1. The factual record in the administrative file demonstrates that you fail to meet the operational test because your activities in providing grants to persons who are not poor, distressed or underprivileged does not further a charitable purpose. You do not serve public rather than private interests as stipulated by section 1.501(c)(3)-1(d)(1)(ii) of the regulations.
2. You do not meet the requirements under section 501(q) of the Code, Section 501(q)(4)(A) defines credit counseling services as (1) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit or (2) the assisting of individuals and families with financial problems by providing them with counseling or (3) a combination of activities in (1) or (2) above. Section 501(q)(1)(A)(i) of the Code states a 501(c)(3) or 501(c)(4) organization that engages in substantial credit counseling services must provide such services tailored to the specific needs and circumstances of consumers. Your activities do not tailor your services to the specific needs and circumstances of consumers.
3. You have failed to submit additional information to the Internal Revenue Service upon request. Consequently, you have failed to demonstrate to the satisfaction of the Service that you qualify for exemption. In accordance with section 4.03 of Rev. Proc. 2012-9, your lack of response constitutes in and of itself another basis for denying your application under section 501(c)(3).

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892,. These items include:

1. The organization's name, address, and employer identification number;
2. A statement that the organization wants to appeal the determination;
3. The date and symbols on the determination letter;
4. A statement of facts supporting the organization's position in any contested factual issue;
5. A statement outlining the law or other authority the organization is relying on; and
6. A statement as to whether a hearing is desired.

The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Holly O. Paz  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure, Publication 892